

OF A
S P E E C H

Delivered by the Honorable

VVilliam Perpoynt

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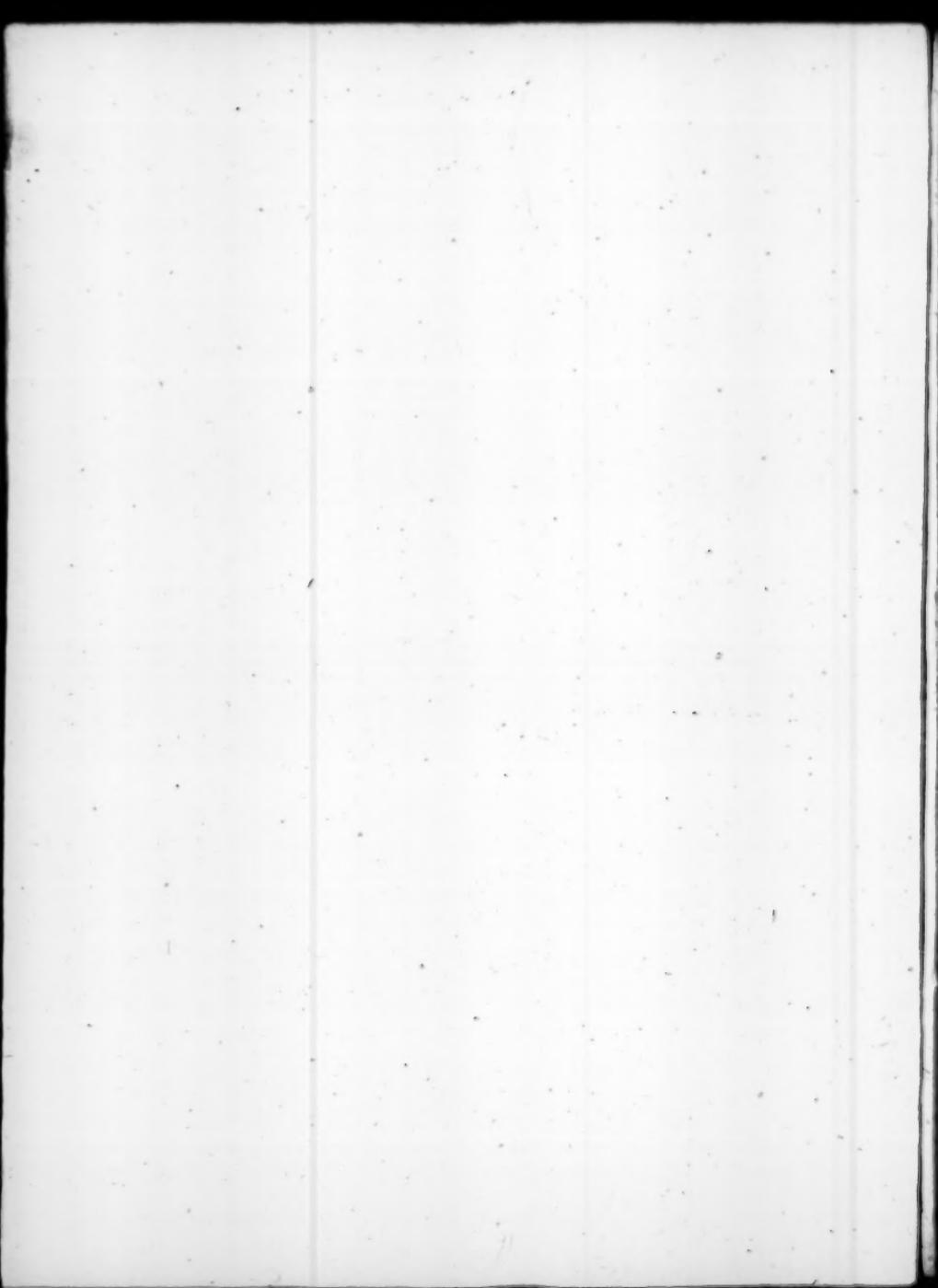
second Son to the right Honorable
the Earle of Kingstone,
against

S^r ROBERT BERKLEY
Knight, one of the Justices of the
Kings Bench, in maintenance of
their accusation of high Treason,
and other great misdemeanors.

At a Conference of both Houses in the
Painted Chamber, July 6. 1641.



LONDON,
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MY LORDS,



Am commanded to present to your Lordships these Articles, with which the Knights, Citizens, and Burgesses of the Commons house of Parliament, in their own name, and in the name of all the Commons of *England*, impeach Sir *Robert Barkley*, Knight, one of the Justices of his Majesties Court of Kings beach in maintenance of their accusation of high Treason, and other great misdemeanours. The Articles they desire may be read.

The Articles were read by Mr. Newport.

The high Treason is in the first Article, in his endeavoursto subvert the fundamentall Laws of this Realm, and to introduce an Arbitrary and Tyrannicall government, which have been lately adjudged Treason, in the cause of the Earle of *Strafford*.

The other Articles prove the first. By his opinions, Certificates, Judgements, by his denials of the benefits of our Laws, which have been read to your Lordships. No fundamentall Law to the Subject is left, our goods, our lands, our bodies, the peace of a good conscience are by him given up to Arbitrary, Tyrannicall Government.

Nothing hath been omitted to make a Judge know the Laws, to make him just, or fear him from

being evil; We have Innes of Court for their peculiar study, Judges from thence only chosen; fel-dome any but what have been twenty years there; Honours and revenues are given to Judges, encouragements to do well; this Judge had these; Judges are sworn according to Law to serve the King, and his people, according to Law to counsell the King, and for not so doing, to be at his will for body, lands and goods; this Judge took that oath; the Laws the Judges study, impose the greatest punishments on unjust Judges, shew that these punishments have been inflicted; more could not be done to per-swade or fear a Judge.

His offences shew in him great ambition, yet he was most timorous of displeasing the great in power he did not onely forbear doing what he was sworn to do, but was most active against our Lawes, & in opposing and punishing any that did mainteine them.

To have only received Bribes (though they blind the eyes, and though the desire to get money encræseth with age) that hainous crime in a Judge had been, in comparison with his offences, a tolerable vice; for from such a Judge justice is also to be had for money. Ambition is violent, and ruines, whilst Covetousnesse is making a bargain.

The words of his opinions and judgement are for the Kings power. It is pleasing to the nature of man that others should obey his will; and well framed dispositions of Princes may easily be perswaded their power is unlimited, when they are also put in mind, that therefore they have more cause to do well, and for doing well are more renowned; For the most oppressive designes (which we have suffer-ed

ed under) the pretences to his Majestie have ever beene the good of his Subjects; His is the sin, that is to judge by the Lawes, and knows the Lawes are to the contrary, yet puts and confirms such thoughts in his Prince. He, that incites another to Arbitrary Government, when his selfe ends are thereby compassed, hates him for taking that power he perswaded him unto.

The writs, those monsters of necesse to provide Ships to prevent imminent danger, that could not stay forty daies for the calling of a Parliament, were therefore to goe out in September to have Ships ready in March. This hath beene adjudged by your Lordships to bee destructive to the fundamentall lawes of this Realm and to the subiect right of property and liberty &c. that I shall say but this concerning them, that this Judge published them to bee inseparable flowers of the Crown. And that wee have lived to see for five yeares together imminent danger, and thus to bee prevented.

This Judge did advise to such a government as future Kings here might exercise the highest Tyrannies, and the Subjects want the benefit of restraints knowne to the most slavish Easterne nations where if their Prince doth unjustly, he hath hatred for it, and the dangers that follow that. This Judge will have that hatred to goe to our good lawes. No such bondage as when lawes of freedom are misinterpreted by Judges to make men slaves.

What can be consider'd of in a Judge of Law to give his opinion and advise to his Prince how the lawes the mutuall covenants of Kings and Subjects

are to be broken but that his intentions are to have his Prince doe ill by making his evill servants to study, and to be pleased with their wicked designes: because they see means to put them in execution, by making them to perswade their Prince, because in imminent danger, his Subjects goods are at his will, that there is such danger when there is not: and they onely have some by-end of their own.

A Judge to deliver his opinion, that if the King should intend to give up his people to be destroyed by forreign forces, for the safety of the people in that imminent danger once by the Law might take away the King; there could be no greater offence.

This Judge will have our Law to be what to him seems reason; the reason limited to him to judge of is what the common Law saith is so, what a Statute hath so enacted. For him to judge this or that is Law, else a mischief shall follow, is at best for him, but this because the Law in such a thing is imperfect, therefore he will make a Law to supply it; or because that the Law written in such particulars is against his reason, therefore his reasons to be Laws; then must follow, as often as a Judges reason changes, or Judges change, our Laws change also.

Our liberties are in our Laws, where a Subject may reade or hear read, this is his, this he may do, and be safe, and that thus the Judge ought to give judgement, he is free. The excessive growth of Courts of reason, conscience, came from great and cunning persons, and though not the most sodain, yet the most dangerous, and sure wayes to eat out our Laws, our liberties.

Unlimited power must be in some to make and repeal

repeal Laws to fit the dispositions of himself and per-
sons, Nature placeth this in common consent only,
and where all cannot conveniently meet, instruceth
them to give their consents to some they know or
believe so well of as to be bound to what they agree
on. His Majestie, your Lordships and the Com-
mons are thus met in Parliament, and so long as we
are often reduced to this main foundation, our King
and we shall prosper.

This Judge will not allow us our knowledge or
any reason, he will have our minds, our souls slaves.
A grand Jury-man gave his fellows true informati-
on, they present an innovation in the Church, are
threatened & reviled for it; he that told this truth is
charged (I shall use this Judges own words) to sit in
that, & that he made others forswear themselfs; this
Judge sent him to the common goal, where he is
laid in irons, and all this, because he and they durst
meddle with Church-matters. He is forced to tear
the Presentment in pieces in open Court; our Laws
provide for the peace of our consciences, many Acts
of Parliament are for it, and the trust by those Acts
set to Juries; this Judge well knew all this; your
Lordships have heard what he did to the Jury at
Hartford; He would have us know no more Di-
nity then to obey what the Great of the Clergy di-
rected, no more Law then what he said was so.

Judges in former times, (but only such as were
examples of punishment, as of injustice in cases of
great and publike concernment) forbore proce-
dings till the next Parliament. This necessitated the
calling of Parliaments; this Judge had as many
such causes before him, as any had, yet he never
desired

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desired the resolution of Parliament in any one, for
the wayes he went, the necessitie was never to have
a Parliament, he would pull up that root of our safe-
ties and liberties, which whilst we enjoy, the malice
or injustice of all other Courts and persons can never
ruine, and when neare to ruin (as most neare of late)
this onely sure remedy will helpe us, nothing can
ruine a Parliament, but it selfe.

The evills which we have suffred under, they
were committed by the judges, or by them ought to
have been and might have been prevented!

This Judge assisted in causing the miseries we suf-
fered in the Starchamber and at the councell table, he
denied the known rights which he ought to have
granted us to stop our grievances in the Ecclesiasti-
call Courts, he was the causer of our sufferings in
other Courts.

The best lovers of their Laws and liberties, the
most honest suffer most by an unjust Judge, they
most oppose his vices, dishonest persons find such
a Judge to fit their purposes, the Judge finds them
for his, the bond of iniquity confederates them.

He that will do no wrong, will suffer none which
he can help; the man that knows himself born free,
will do his utmost to live so, and to leave freedome
to his posterity, were he in slavery, when by out-
ward gesture thought to be most delighted, were
his mind then known, there would be found vexa-
tion, and his busie thoughts employed to redeem
himself and his posterity from thralldome. But to
say, could this Judge intend to make himself and
his own posterity Slaves? What he did was through
error of judgement onely; No my Lords, what

his aimes and endeavours were is apparent. To consider man in the generall, we shall find in every age he will be a slave to some few, that many may be slaves to him, he looks to himself onely ; this he would doe or forbear doing to be great, to be rich, had he children or kindred or had none. This high
ly unjust Judge by continuing sinnes, maintained his actions to preserve himself, he knows to be found guilty in one of his offences, the penaltie of the Law for it, therefore covers the offences committed with inventing and acting other.

For a Judge to be unjust, more hurts the publique then any other, he is not suspected. What a Judge doth is looked on as a thing that ought to be done. The most pernicious great man that by cunning hath got to himselfe the heart and tongue of his Prince, his ill acts have dyed with him, if not taken up by others, and then they walke in darkenesse, No man will justify what he doth by saying such a favorite did it, but the unjust Judgements of this Judge were given in the noone day, were done in the face of the whole Kingdome in the hearing of such as might carry the newes to all parts of the Realme, and was therefore done. His unjust Judgements were our new cords. We have seen wicked great men most craftily politique, they hated our Laws, yet not meeting with active Judges moulded to their purposes, they and their acts have dyed, the Realm flourished, but of late others lessse politique meeting with most unjust Judges, every way as ill as they could wish them to be, then did the Kingdome faint under the load of its misery, did long struggle ; now its rising I assure my self, your Lordships will assist to take of the burden.

If the designes of some would not have such a man to be at liberty, a warrant from some Lords of the Councell would soon have laid him in prison, and given no cause; had he moyed this Judge to be discharged or bailed, he could have obtained neither, if their wayes would not have endured that man to live, a Judge reviling the prisoner, and his Councell that moved for his discharge or bail, joynted with the hate of some great man, might soon have moved a Gaoler for unwholsome rooms and looging, and ill diet for his prisoner, and they may soon take life away.

Offenders in prisons are looked after to be safe only such are brought in by power against Law, are abused.

Had a great man deford these states of others, the breach of a Proclamation might readily have been charged against them in the Starchamber; but they, it may be could have answered and cleared themselves, and prov'd their answere by testimonies, had they been referred to this Judge, he would have expunged the one, suppressed the other. Then followed Fines to the value of their estates, or more, then imprisonments of course till they paid such Fines, your Lordships have heard what this Judge did to the Sop's boylers.

The Country-man followed the plough, and his thinking he was assured of his right of Proprietie and libertie, gave him abilitie to doe it. He believed his neighbour, his landlord, his King, could not take his goods from him without his consent. He knew the usuall paiments by law, and in extraordinary causes thought to have that care to chooſe ſuch for

his Knights of his shire, or for his Burgeesses, as
might be mindfull of the cause of painment, and of
his estate.

This man hath heard the opinions and judge-
ment of this Judge, hath seen his goods taken from
him without his, or his knighths of the Shire, or Bur-
geesses consent or advise. These have made him, his
wife, and children to joyne in teares so wch they
had never beene borne, they have made them think
on many wayes to keepe lase that estate which was
yet left them, have made them desire to sell all their
goods, and hide the money, but then he remembred
this Judge, how that he shall be carryed to prison,
and remain there if he pay not what please others
to asesse him. Then they thinke idle persons (the
droanes and moths of the Common wealth) to be a
wise people, who to be unworthy to live, they for-
merly conceited. They expect and can think of no-
thing, but to be Beggars.

Where publike and enormous offences have
been committed, eminent and notorious punishments
must be, such will make your Lordships pro-
ceedings highly esteemed, else there will be so
many offenders, as none without danger can be pu-
nished.

This Judge, subverting our Lawes, tooke away
the hearts of many ; he subscribed for the Kings
power, but so as he put him on taking his Subjects
goods, and of all other, such wayes be most dangerous;
For we know, his Majestie is not the last that
suffers, and is not the King worth many thousands.

The place of this Judge was to have given and
preserved to the King the hearts of his Subjects, the

due execution of the lawes had done this, and when
A man's notice is taken of a Prince, none will confesse
against him who cannot faine to themselves safty
before or after any fact committed. Forrigne
enemies will not invade his Kingdomes.

Thus hath his Majestie now got our hearts, and
will forever have them. This Judge is to answer
for what his Majestie, and for what we have suffred.

I am by command of the House of Commons to
desire of your Lordships that the proceedings
against Sir Robert Berkley Knight, one of the Justices
of his Majesties Court of Kings Bench may be pur-
in as speedy a way of Triall, as the course of Parlia-
ment will allow.

RECEIVED IN THE CHAMBERS OF THE HOUSE OF COMMONS
ON THE 20TH DAY OF APRIL 1603.
BY ROBERT BURKE, CLERK OF THE HOUSE OF COMMONS.
TO THE HOUSE OF COMMONS, TO BE READ AND CONSIDERED.
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